

REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL

SEPTEMBER 17, 2007

KENDALL-DEAN SCHOOL

7:00 P.M.

GOOD & WELFARE

Affordable Housing

Mr. Ernest Alter felt the Town Council had ignored the town visionary survey that was conducted several years ago by including affordable housing in the Comprehensive Plan. He urged the Council to heed the wishes of the people and “ignore the Comprehensive Plan where it infringes on our basic civil rights to protect the value of our property and our freedom.”

Providence Pike Bus Stop

Mr. Jim Cloutier of Bourget Court was concerned about a bus stop located on Providence Pike just south of Pound Hill Road. He felt it was very dangerous and requested that it be moved back to where it used to be at the corner of Bourget Court and Jeanne Court.

Mr. Leclerc suggested that Mr. Cloutier contact School Superintendent Stephen Lindberg.

Mr. Lowe stated he has received numerous complaints about the bus stop and spoke with Mr. Lindberg to ask him to review the route. Mr. Lowe suggested that the Council request the Public Safety Commission investigate the situation.

Mrs. Thibault agreed to place the matter on the October 1st agenda.

PUBLIC HEARING NORTH SMITHFIELD TOWN COUNCIL

SEPTEMBER 17, 2007

KENDALL-DEAN SCHOOL

7:00 P.M.

The meeting began at 7:10 P.M. with the prayer and the pledge to the flag. Council members present were Mr. Keeley, Mr. Leclerc, Mr. Lovett, Mr. Zwolenski and Mrs. Thibault. Town Administrator Lowe was also present. Town Solicitor Hadden was unable to attend due to a personal matter.

This hearing was held at the request of McDonald's Corp. for an extension of operational hours for their drive-thru window only.

Attorney Patrick Dougherty explained that his client had been before the Council back in March and April and at that time the Council requested an opinion from the Planning Board. He provided a letter from the Planning Board that favorably recommended the extension of McDonald's operational hours.

Mr. Zwolenski thought this would be a grave error. Other fast food establishments will be sure to follow. In addition there are five homes and condominium units nearby.

MOTION by Mr. Zwolenski to deny the request for 24-hour drive-thru service for McDonald's Corp. The motion died for lack of a second.

MOTION by Mr. Lovett and seconded by Mr. Leclerc to grant a license to R. L. Curtis and Joseph Napoli for McDonald's Corporation located at 12 Eddie Dowling Highway to extend their drive-thru window service from 11:00 P.M. to 5:00 A.M. based upon the recommendations of Chief Reynolds, Town Administrator Lowe and the Planning Board. Also if there is an increase in trash, Mr. Curtis will clean it up.

On a roll call vote the motion passed 4 to 1 with Mr. Zwolenski voting no.

**REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL
SEPTEMBER 17, 2007**

**KENDALL-DEAN SCHOOL
PUBLIC HEARING**

IMMEDIATELY FOLLOWING

The meeting began at 7:40 P.M. The prayer and the pledge to the flag were waived. Council members present were Mr. Keeley, Mr. Leclerc, Mr. Lovett, Mr. Zwolenski and Mrs. Thibault. Town Administrator Lowe was also in attendance. Town Solicitor Hadden was unable to attend due to a personal matter.

EXECUTIVE SESSION

MOTION by Mr. Lovett, seconded by Mr. Leclerc, and voted unanimously on an aye vote to enter executive session at 7:41 P.M. pursuant to

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RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation to discuss C. Brennan vs. the Town of North Smithfield only.

MOTION by Mr. Lovett, seconded by Mr. Keeley, and voted unanimously on an aye vote to come out of executive session at 8:00 P.M. and to seal the minutes. No motions were made and no votes were taken.

C. Brennan vs. Town of North Smithfield

MOTION by Mr. Lovett, seconded by Mr. Keeley, and voted unanimously on a roll call vote to approve the payment of \$18,000 to Carol Brennan in settlement of two pending claims against the Town, in return for a release of all claims and dismissal with prejudice; ten thousand dollars (\$10,000) to be paid in this fiscal year and eight thousand dollars (\$8,000) in fiscal year 2008/2009.

MOTION by Mr. Lovett, seconded by Mr. Keeley, and voted unanimously on an aye vote to table discussion of Northern RI Private Industry Council vs. Town of North Smithfield to the October 1, 2007 meeting.

APPROVAL OF MINUTES

MOTION by Mr. Lovett and seconded by Mr. Zwolenski to approve the minutes of August 6 and 20, 2007.

Mr. Zwolenski made a correction to Page 148 in discussion of the Great Pumpkin Festival. The last sentence should have read that Mr. Zwolenski questioned if the insurance coverage is picked up by the town.

Mr. Lovett amended his motion to include Mr. Zwolenski's correction, Mr. Zwolenski amended his second, and the motion was passed unanimously on an aye vote.

PAYMENT OF BILLS

MOTION by Mr. Lovett, seconded by Mr. Leclerc, and voted unanimously on a roll call vote to approve payment of the following: General Fund - \$1,763,968.34; Sewer - \$483,866.27; and Water - \$3,759.42 for a total of \$2,251,594.03.

MIDDLE SCHOOL CONSTRUCTION

GILBANE BUILDING COMPANY

Requisition #13 Job#4178

MOTION by Mr. Leclerc and seconded by Mr. Lovett to approve payment of Requisition #13 Job #4178 in the amount of \$2,086,802.40.

Mr. Leclerc questioned the purchase of polo shirts in the amount of

\$170.00 and the fact that Ronald Fagnoli's time had not been approved with anyone's signature.

MOTION was amended by Mr. Leclerc, the second was amended by Mr. Lovett, and it was voted unanimously on a roll call vote to approve payment of Requisition #13 Job #4178 in the amount of \$2,086,802.40 with \$170.00 to be deducted from Requisition #14 and signed approvals for Mr. Fagnoli's time will be included in the next requisition.

Requisition #2 Job #4178010

MOTION by Mr. Leclerc, seconded by Mr. Lovett, and voted unanimously on a roll call vote to approve payment of Requisition #2 Job #4178010 in the amount of \$99,759.75.

Mr. Leclerc requested that in the future the funding sources for the security system and the football fields be separated.

Joseph J. Reale, Jr. Ltd.

MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on a roll call vote to approve Invoice #32097 in the amount of \$1,250.33.

Briggs Engineering and Testing

MOTION by Mr. Leclerc, seconded by Mr. Lovett, and voted unanimously on a roll call vote to approve Invoice #36544 in the

amount of \$6,940.25.

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Total of all payments for Middle School construction is \$2,194,752.73.

RECOMMENDATIONS FOR MIDDLE SCHOOL PROJECT BY SCHOOL BUILDING COMMITTEE

MOTION by Mr. Lovett, seconded by Mr. Leclerc, and voted unanimously on an aye vote to move this item up on the agenda.

Changes to Owner Contingency

MOTION by Mr. Leclerc, seconded by Mr. Lovett, and voted unanimously on a roll call vote to approve the following changes to the Owner Contingency: 1.) For the removal of ledge, trench rock, unsuitable materials and open rock boulders exceeding 1 c.y. during construction of the new parking lot and bus turnaround - \$46,438.00; 2.) To relocate two telephone poles near the entrance to the High School - \$9,490.00; 3.) Testing of the High School's main electrical switchboard - \$8,088.00.

Changes to Builder's Contingency

MOTION by Mr. Leclerc, seconded by Mr. Lovett, and voted unanimously on a roll call vote to approve the following change to the Builder's Contingency: Install an 8" gate valve on the hydrant loop to the Middle School, 16 hours of overtime to prepare the electrical work

under the concrete slab in the gym, relocate the High School directory, removal of overgrown shrubs, raise the drain near the High School water tank and repairs to the basketball court scoreboards - \$3,849.00.

Rejection of Alternates #6 and #7A

MOTION by Mr. Leclerc, seconded by Mr. Lovett, and voted unanimously on an aye vote to reject Alternates #6 and #7A (vinyl quartz tile flooring) based upon the recommendation of the School Building Committee.

Award of Bid for Nevadonski Well

MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on a roll call vote to award the bid to drill a new well on the Nevadonski property, to include capping of the old well, as per the agreement signed by the Town at a cost of \$10,160.00 based upon the recommendation of the School Building Committee.

Guaranteed Maximum Price Amendment

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to table this to the October 1st meeting to allow Mr. Leclerc additional time to review it.

MOTION by Mr. Leclerc, seconded by Mr. Lovett, and voted unanimously on an aye vote to authorize the Town Administrator to execute the documentation for the changes to the Owner

Contingency and the Builder's Contingency, the drilling of a new well on the Nevadonski property and the rejection of Alternates #6 and #7A.

AGREEMENT WITH RI DEPARTMENT OF TRANSPORTATION/ADOPT A SPOT

MOTION by Mr. Lovett, seconded by Mr. Leclerc, and voted unanimously on a roll call vote to approve the Memorandum of Agreement, as approved by the Town Solicitor, between the Rhode Island Department of Transportation and the Town of North Smithfield to maintain the State Adopt A Spot program within the town. The Town Administrator is authorized to sign this agreement that begins on October 1, 2007 and expires on October 1, 2009.

SOLID WASTE AND RECYCLING SERVICES AGREEMENT

MOTION by Mr. Lovett, seconded by Mr. Leclerc, and voted unanimously on a roll call vote to approve the Solid Waste and Recycling Services Agreement between the Town of North Smithfield and Rhode Island Resource Recovery Corporation for Fiscal Year 2008 as presented and to authorize the Town Administrator to sign the contract on the town's behalf.

AWARD OF BID – OSAGE TYPE 1 RESCUE VEHICLE

MOTION by Mr. Lovett, seconded by Mr. Keeley, and voted unanimously on a roll call vote to award the bid to Quality Emergency Vehicles, Inc., the lowest qualified bidder, in the amount of

\$182,917.00 based upon the recommendations of Chief Joel Jillson, Town Administrator Robert Lowe and Finance Director Jill Gemma.

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AWARD OF BID – AUTOMATED EXTERNAL DEFIBRILLATORS

MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on a roll call vote to award the bid for seven FRX AEDs and one Onsite AED to Bound Tree Medical for a total cost to the Town of \$9,232.31 based upon the recommendations of Chief Jillson, the EMS Third Party Billing Committee, Town Administrator Lowe and Finance Director Gemma. The Kiwanis Club has donated \$2,600.00 for this purchase contingent upon one Onsite model be purchased and donated directly to the North Smithfield Soccer Association.

Funding will come from the EMS Third Party Billing Committee.

AWARD OF BID – POLICE VEHICLES

MOTION by Mr. Leclerc, seconded by Mr. Lovett, and voted unanimously on a roll call vote to award the bid for two (2) police vehicles to MHQ Municipal Vehicles, the lowest qualified bidder, in the amount of \$57,728.00 based upon the recommendations of Chief Reynolds, Town Administrator Lowe and Finance Director Gemma.

AWARD OF BID – SMITH ST. FENCING

MOTION by Mr. Lovett, seconded by Mr. Leclerc, and voted 4 to 1 on a roll call vote (Mr. Zwolenski voted no) to award the bid to Citiworks,

the lowest qualified bidder, for a total of \$6,058.00 based upon the recommendations of Public Works Director Pendergast, Town Administrator Lowe and Finance Director Gemma.

SCHOOL DEPARTMENT CAPITAL REQUEST

Halliwell and NSES Intercom and Clocks

MOTION by Mr. Leclerc, seconded by Mr. Lovett, and voted unanimously on a roll call vote to award the bid for Halliwell in the amount of \$19,208.00 and for NSES in the amount of \$22,480.00 to Uncle's Sound System based upon the recommendation of School Facilities Director Robert Desrochers.

Funding will come from the 1999 school bond.

BANKRUPTCY LITIGATION BY TOWN SOLICITOR

MOTION by Mr. Lovett, seconded by Mr. Keeley, and voted unanimously on an aye vote to table this matter to the October 1st meeting.

SEWER COMMISSION MINUTES

MOTION by Mr. Lovett, seconded by Mr. Keeley, and voted unanimously on an aye vote to accept and place on file the minutes of June 13, 2007.

CHERRY BROOK

Town Planner Michael Phillips is investigating whether the drainage

plan will qualify under the grant rules. The grant round will come out some time in the fall and he will apply at that time. Mr. Phillips is looking at watersheds and he has submitted changes to the Hazard Mitigation Plan.

Mrs. Thibault asked if the Council could get a written timeline.

Mr. Lowe was hesitant to provide that because there could be so many fluctuations in a timeline and he did not want Mr. Phillips to be held to it.

Mr. Phillips agreed to keep in contact with Mr. Miles Briggs.

NORTH SMITHFIELD PUBLIC LIBRARY

Alison Peirce, President of the Library Board of Trustees, introduced representatives of the architectural firm that designed the proposed new library. They presented several renderings of the library to be located in the Slatersville Mill complex.

NORTH SMITHFIELD LAND TRUST/BOOTH POND

Caroly Shumway of the Land Trust came before the Council to gauge the members' interest in joining with the Land Trust to purchase Booth Pond. She noted that RI NHPC has ranked the Land Trust's Application for Booth Pond Open Space grant as 2nd highest in the state and that the pond is home to various endangered species. Dr. Shumway noted that DEM, as part of the Open Space Grant, requires

an appraisal of the property and she asked the Council to pay for one-half of the

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appraisal fee, which is \$4,250.00. This bid ends on September 30, after which it will increase an additional \$750.00.

Mr. Phillips commented that it was his understanding the appraisal and survey fees would be included in the grant so if the town wanted to kick in money, it would be reimbursed.

Mr. Zwolenski stated that the Planning Board has not reviewed Phases 2, 3 or 4. It appears that Mr. Bucci, the developer of Dowling Village, has made the sale of Booth Pond contingent upon approval of these phases. The Planning Board may ask for some of the area as open space.

Mr. Lowe noted that the amount of the appraisal is over \$3,000.00, which he believes would have to go out to bid.

Mrs. Thibault stated the Council is not prepared to vote on anything tonight because there are still several unanswered legal questions.

MOTION by Mr. Lovett, seconded by Mr. Keeley, and voted unanimously on an aye vote at 10:30 P.M. to extend the meeting to 11:00 P.M.

BUILDING PERMIT PROCESS

Mr. Leclerc had submitted several questions to the Building Inspector and the Tax Assessor. Following are the questions and the written answers:

QUESTIONS FOR BUILDING INSPECTOR AND ZONING ENFORCEMENT OFFICER

1. What is the process of review used when an application for a building permit is submitted including:

Answer: Use of Compliance check list, review will be different, depending on proposed application. I.E. – Permit for new residential structure, on vacant land, will require more review, than an addition on existing structure.

a. Who determines whether all required information has been submitted and is there a check list or other criteria used to make such determination?

Answer: Building Official determines if all required material has been submitted. (Yes, there is a check list used.)

b. Who reviews the submitted drawings and during which part of the review process is that done?

Answer: Building Official will review submitted drawings, after all requirements are satisfied. I.E. Taxes must be current, in compliance with Zoning, Fire Plan of Review if required, and etc.

c. Is there any check list or other criteria used to determine whether the submitted drawings provide all required information?

Answer: No checklist, Plan Review will determine if all information has been provided.

d. If there is no check list or other set of criteria used to determine whether an application for a building permit and drawings provide the required information, how is it determined that the application and drawings are complete and in compliance with all laws, codes and ordinances?

Answer: It is determined if the application and drawings are complete and in compliance with State and Local code, at time of review.

e. If you use check lists or other written criteria in the review of the application for a building permit and the drawings please provide copies of them.

Answer: Did provide a copy of compliance check-list.

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f. How many inspections are typically scheduled and made by you as the Inspector on a building project?

Answer: The number of inspections on building projects will range any where from one to seven. For instance: Roofing, siding, replacement windows – (one inspection); Sheds, decks, and pools – (two inspections); New structures, additions and garages (up to seven). I.E. – site, footings, foundation, rough, insulation, drywall, and final (7). (Note: Sometimes, re-inspections are required.)

g. If an application for a building permit is not complete what procedure is used to notify the applicant of the deficiencies and subsequent review of additional information?

Answer: If an application is incomplete, a call to the applicant is made and informed what is needed.

h. Is it required that a set of stamped drawings be submitted prior to your approval on the commencement of construction or any phase of construction?

Answer: Stamped plans are not required, however, if the plans indicate unusual spans for support timbers or spacing of support

columns, then I will request engineering for that certain area.

2. How many Notices of Violation have been issued by you in the past 12 months for violation of the zoning ordinance?

Answer: Notices of violation from our Zoning Ordinance, is issued by our Assistant Zoning Inspector – Terry Andoscia. The number of notices issued in the past 12 months – approximately 250 – 300.

3. How many Notices of Violation have you issued in the past 12 months for building code violations?

Answer: No building code violations issued. All corrections are made upon request, at time of inspection.

4. For all such violations were all corrected to your approval and if not what did you do further to enforce compliance?

Answer: If Zoning Ordinance violations are not corrected within the required time, the Town Solicitor is notified of such violation, for further action.

5. What procedure is used by you to notify the Tax Assessor of any building project's progress so that proper tax assessments can be made of foundations and other taxable structures? Are there any measures taken to help ensure that such information is passed along

to the Assessor? If any of these procedures are in writing please provide copies.

The Tax Assessor receives a copy of all permits issued by the Inspection Department. When the building project is completed, a Certificate of Occupancy or a Certificate of Completion is issued to the applicant or owner. Also, a copy of the certificate is given to the Tax Assessor. In addition, the Building Inspector and Tax Assessor will make inspections throughout the year on ongoing projects to determine current status of such projects.

QUESTIONS FOR TAX ASSESSOR

1. For new building projects in progress or just completed:

a. What is the procedure used to ensure that new building projects are promptly listed on the tax rolls? If such procedure is in writing please provide a copy.

Answer: Each month all permits are received from the building inspector's office. Assessor's office data entries all taxable permits into software program to track permits. Reports are generated from the program each month after data entry. For all new construction and additions Assessor requests all plans that were

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submitted to the inspector's office for that permit. Sketches are drawn of the project and held aside until the physical inspection is completed. When new permits are first received they are coded as 1%. As the project progresses they are coded according to percent completed i.e.: 50% complete and so on until they are 100% complete.

They are valued and taxed on the percent complete as of December 31st and billed in the next tax roll year. New construction is tracked and taxed in the same way. However they are added to the tax roll differently. The building inspector along with the Assessor inspects the newly constructed building upon completion and the inspector issues a certificate of occupancy. At the time of the certificate of occupancy the assessor brings the project to full value, and this is added to a supplemental tax roll. The added assessment that was not on the tax roll as of December 31st of the previous year is prorated and taxed. A tax bill is generated and mailed to the resident.

b. Do you rely on the Building Inspector's Office to provide such information or does your office contact the Inspector for periodic updates?

Answer: Assessor's office relies on the inspector's office for all new permits. Permits are received monthly from the Inspector's office. (Interoffice mail)

c. Is there any procedure in the form of checks and balances to insure that new building projects are promptly listed on the tax roll?

If such procedure is in writing please provide a copy.

Answer: Checks and balances consist of monthly reports tracking all taxable permits to be inspected. Throughout the year meetings are held with the Inspector and we go over my reports as to where in the construction each permit is... Inspections are done throughout the year, however the months of November and December are when all permits not completed are inspected and the percent completed is tracked, as to amount of Assessment to be added to the tax roll as of December 31st.

2. Who is ultimately responsible for the prompt assessment of all building projects whether completed or in progress?

Answer: Assessor is responsible for assessment values of all building projects as of December 31st and for all prorated new construction assessments throughout the year, provided all permits are received.

3. Describe the process of communication between the Tax Assessor's Office and the Building Inspector's office.

Answer: Communication between the Inspector's office and Assessor's office is a daily occurrence, either by fax, phone or in person. I believe communication and team work between the Inspector's office and the Assessor's office to be excellent.

MOTION by Mr. Lovett, seconded by Mr. Zwolenski, and voted unanimously on an aye vote at 11:00 P.M. to extend the meeting to 11:15 P.M.

HYDROELECTRIC POWER PLANT

Mr. Leclerc was concerned that a town landowner has approached the State of Rhode Island for a proposed hydroelectric power plant and that information may not be forwarded to the town.

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote that the Town Council President, in conjunction with the Town Solicitor, write a letter of inquiry requesting any information or communications on this proposal and clearly state the Town's request that it be notified of any information as it may become available. The letter should also state that the Town has previously and successfully fought the siting of a power plant and has laws prohibiting their placement. This letter should be sent to, but not be limited to the following: EPA, AG's office, DEM, Governor's Office, PUC, Department of Business Regulation, Other relevant boards and agencies (The State Siting Board for Power Plants), State Representative Raymond Church, State Senator John Tassoni, Jr., North Smithfield Zoning Officials, North Smithfield Solicitor Mark Hadden, North Smithfield Assistant Solicitor Bob Rossi,

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North Smithfield Planning Board, North Smithfield Zoning Board and North Smithfield Conservation Committee.

COMMUNICATIONS

MOTION by Mr. Lovett, seconded by Mr. Leclerc, and voted unanimously on an aye vote to receive and place on file the following: A.) Animal Control Monthly Report for August 2007; B.) NSF&RS Inc. Monthly Report for August 2007; and C.) Resolution Opposing Retention of Independent Legal Counsel by School Committees.

MOTION by Mr. Zwolenski, seconded by Mr. Keeley, and voted unanimously on an aye vote to adjourn at 11:20 P.M.

Respectfully submitted,

Debra A. Todd, Town Clerk